

PMS 22-672

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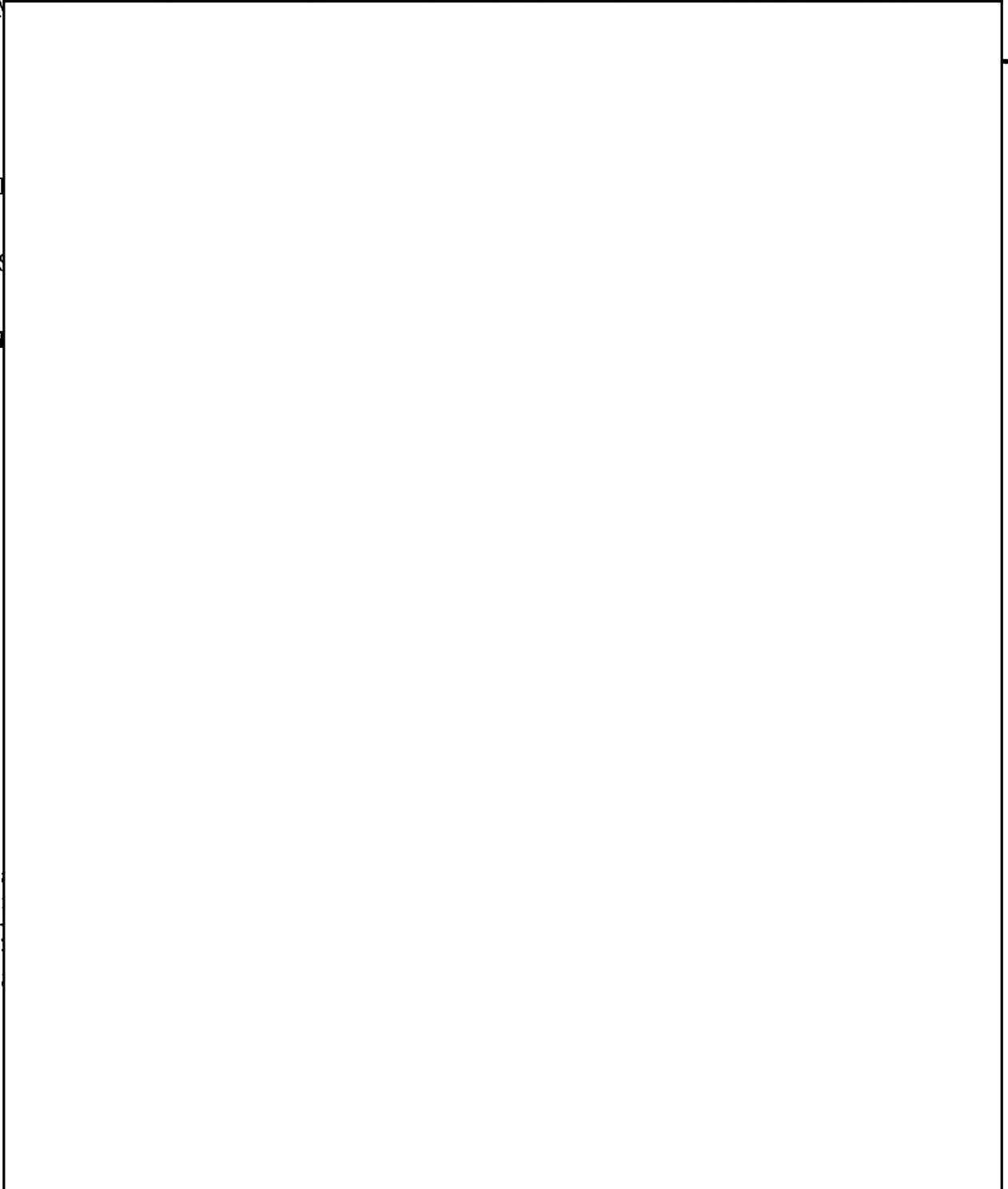
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OGC Has Reviewed

26 MAY 1977

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7 APR 1977

FORM 163c

ATTACHMENT

MEMORANDUM FOR THE RECORD

FROM : [REDACTED]  
Deputy Director of Personnel

SUBJECT: Reimbursement to the Treasury of the Amount of Annuity for  
Reemployed Annuitants

1. On 5 April 1977, the undersigned met with Mr. Thomas A. Tinsley, Director, Bureau of Retirement and Insurance, Civil Service Commission. Also present at the meeting from CIA were Mr. Pat [REDACTED]

Chief, Contract Personnel Division. Messrs. Herbert Doyle, Deputy Director, BRI, and Craig Pettibone, BRI, were also present.

2. The purpose of the meeting was to clarify whether the provisions of Public Law 94-397 as it relates to reimbursement to the Treasury of the annuity for a reemployed annuitant applies to those civilian federal retirees CIA engages as independent contractors. I explained to Mr. Tinsley some of the various types of activities for which CIA engages independent contractors, such as translators performing work at their houses translating unclassified material, the [REDACTED] of the Office of Security, guest lecturers at OIR courses, escorting of foreign officials in the United States, etc. I covered the legal distinction we use to determine that the individual is properly categorized as an independent contractor in the furnishing of a product or service, and read appropriate provisions of our regulation on the subject.

3. Mr. Tinsley stated that he had resolved the earlier effort to broaden the scope of P.L. 94-397 to include all rehired annuitants and that now, the standards existing prior to the passage of the law are being followed, i.e., the law affects rehired annuitants who are rendering services as employees. He did express some concern that some of the services rendered by individuals we have classified as independent contractors come close to the line. Consequently, he advised us to ensure that our category of independent contractors is properly defined to ensure that an employee-employer relationship does not exist.

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Reemployed Annuitants

4. Based on this discussion, we know that P.L. 94-397 does not change definitions which existed prior to enactment and affects only those individuals rendering personal services of a type that create an employee-employer relationship. In view of Mr. Tinsley's reservations concerning personal services rendered by individuals we have classified as independent contractors, I believe it appropriate to have our Office of General Counsel examine our definitions in the context of P.L. 94-397, perhaps to include a discussion of our definitions with the General Counsel, Civil Service Commission. Clearly, the Congress intended an employing agency to bear the cost of annuity when it re-employs an annuitant, and we can anticipate that the law will be carefully monitored by the CSC. It would be prudent, therefore, for the Agency to establish that the services rendered by our independent contractors clearly are such as to not fall within the scope of P.L. 94-397.

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OGC 77-2864

4 May 1977

MEMORANDUM FOR: Deputy Director of Personnel

FROM :

[REDACTED]  
Associate General Counsel

SUBJECT :

Reimbursement to the Treasury of the Amount of  
Annuity for Reemployed Annuitants

ATTACHMENT

1. In response to your request for a review by OGC of the way CIA officially defines independent contractors, it is the opinion of this Office that even in light of P.L. 94-397, the definitions remain valid. [REDACTED] defines independent contractors as essentially "self-employed individuals who, for a fee or other legal consideration, contract to provide a service or product according to their own methods without being subject to the control of the Government except as to the result of the endeavor." On the other hand, as stated in [REDACTED] "an employee is subject to the will and control of the Government not only as to what will be done but as to how it will be done." The thrust of P.L. 94-397, which mandates that an employing agency bear the cost of annuity when it re-employs an annuitant, is directed at the employer-employee relationship. The language of the statute does not cover independent contractors, and the Civil Service Commission concurs in that interpretation of the statute. Therefore, our definitions serve as a useful basis for distinguishing between employees, who come under the statute, and independent contractors, who do not.

2. The distinctions that we have drawn to separate out employees from independent contractors primarily involve whether, in any given case, the Government has retained the right of control over the instrumentalities and details of the work in question. These distinctions present no problem because they embody the accepted legal norms for making employee/independent contractor determinations. However, problems may arise in the application of these distinctions to specific sets of circumstances. Thus, it is important that when contract personnel receiving annuities come aboard, such personnel, regardless of how they've been initially categorized, should be subjected to a close and formal scrutiny to determine whether they have been properly categorized as employees or independent contractors.

## Federal Personnel Manual System

FPM Letter 831-48

**SUBJECT:** Civil Service Retirement: Agencies Procedures for  
Remitting Retirement Reimbursements for Reemployed  
Annuitants

Published in accordance  
of incorporation in FPM  
Supplement 831-1  
RETAIN UNTIL SUPPLEMENT

Washington, D. C. 20541  
May 19, 1976

### Heads of Departments and Independent Establishments:

FPM Letter 831-44 (October 19, 1976) explained the changes made by Public Law 94-413 (effective October 1, 1976) with respect to reemployment of annuitants. This Letter provides additional information; specifically, the procedures governing transmittal of funds that are withheld from reemployed annuitants' salaries.

#### A. Reemployment of Annuitant

When an annuitant is reemployed under conditions necessitating deduction of annuity from pay, upon appointment, the employing agency should request that the Commission furnish the rate of annuity being paid. Each request should contain the reemployed annuitant's name, date of birth, social security number, if appointment is for a full-time or part-time position, and the estimated length of reemployed service.

#### B. Transmittal of Funds

Employing agencies are required to reimburse the Civil Service Retirement Disability Fund an amount equal to the annuity allocable to the period of actual employment. The money should be remitted to the Civil Service Commission, Bureau of Retirement, Insurance, and Occupational Health, Post Office Box 5, Washington, D. C. 20044, as of the same day the payroll checks are dated.

- a) Agencies utilizing the Department of Treasury's Disbursing Centers are to remit the reimbursements using Standard Form 1081. The Treasury Account Station Symbol 24-00-0002 should be shown in the address section and the Fund Symbol 24x8135.7 shown in the Appropriation or Fund Symbol Section. An advance copy of SF 1081, together with a memorandum of accountability for reemployed annuitants, should be sent to the Commission at the above address.
- b) Agencies not utilizing the Department of Treasury's Disbursing Centers should remit the reimbursements by check, together with a memorandum of accountability for reemployed annuitants, to the Commission at the above address.
- c) This accountability data should consist of the agency's eight digit payroll office number, the pay period from and to dates, each reemployed annuitant's name, date of birth, social security number, retirement claim number (if available), number of hours paid during the pay period, if the position is full-time, intermittent, or part-time and the amount being remitted. (See attached example.)

**Inquiries:** Bureau of Retirement, Insurance, and Occupational Health

Code 101, extension 24684 or 63-24684

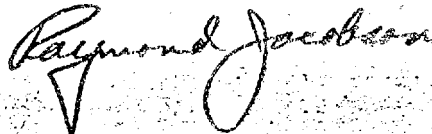
**CSC Code:** 831, Retirement

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C. Separation of Reemployed Annuitant

Upon separation of a reemployed annuitant, the Commission should be notified. Each notice should contain the reemployed annuitant's name, date of birth, social security number, retirement claim number (if available), and date of separation. In addition, if the annuitant is eligible for a supplemental annuity, the agency should prepare an Individual Retirement Record, Standard Form 2806, listing all service in the agency subsequent to retirement. The SF 2806 should be forwarded to the Commission as provided in FPM Supplement 831-1, Subchapter S22, together with the annuitant's new SF 2801, Application for Retirement. An SF 2806 is not required if the annuitant is not eligible for a supplemental annuity.

The National Archives and Records Service has determined that these procedures are operational in nature and are, therefore, exempt from clearance under the provisions of OMB Circular No. A-40.



Raymond Jacobson  
Executive Director

Attachment

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THE FOLLOWING IS A SUGGESTED FORMAT THAT AGENCIES MAY USE.

Accountability for Reemployed Annuitants

XZY Agency Payroll Office Number: 40 00 0002

U. S. Civil Service Commission

BRIOH

Post Office Box 582

Washington, D. C. 20044

Report Number 19

PART I

The following listing update is for the pay period from 1/12/77 to 1/25/77.

1. Total number of reemployed annuitants as of the last pay period.  
(the last pay period was from 12/29/76 to 1/11/77)

4

2. Add:

James A Curry, DOB: 11/23/19, SSN: 574-16-2311,  
CSA: 1 234 567 effective date of employment 1/12/77.

1

3. Deduct:

John F. Gruman, DOB: 7/4/17, SSN: 101-12-1111,  
CSA: 7 654 321 terminated 1/16/77

1

4. Total number of reemployed annuitants on payroll beginning  
1/26/77.

4

PART II

Payment is being remitted for the following reemployed annuitants:

James A. Curry, DOB: 11/23/19, SSN: 574-16-2311, CSA: 1 234 567

Hours paid for: 80 Status: Full-time

408.5

John F. Gruman, DOB: 7/14/17, SSN: 101-12-1111, CSA: 7 654 321

Hours paid for: 40 Status: Full-time

330.7

Robert A. Johnson, DOB: 8/13/20, SSN: 123-34-4567, CSA: 2 345 678

Hours paid for: 32 Status: Part-time

189.30

Mary A Jones, DOB: 5/23/16, SSN: 222-22-3333, CSA: 3 456 789

Hours paid for: 80 Status: Full-time

524.50

\*Warren J. O'Brien, DOB: 3/8/09, SSN: 543-67-7129, CSA: 9 876 541

Hours paid for: NONE Status: Intermittent

0.

Total amount remitted

\$1,453.10

\*Note Employees classified as intermittent should be shown on each report even  
if the employee received no pay for the reporting period.



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